रजिस्ट्री सं० डी०एल०-33004/95 REGISTERED No. DL-33004/95

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खंड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 27] नई दिल्ली, शनिवार, जून 3, 1995/ज्येष्ठ 13, 1917
No. 27] NEW DELHI, SATURDAY, JUNE 3, 1995/JYAISTHA 13, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 3rd June, 1995:—

BILL No. 37 OF 1995

A Bill further to amend the Representation of the people Act, 1950.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1995.

(*2*) It shall come into force at once.

43 of 1950.

Amendment of section 22.

2. In section 22 of the Representation of the People Act, 1950, after the existing proviso, the following proviso shall be added, namely:—

"Provided also that if the electoral registration officer has reasons to suspect, on the basis of the information available to him and after due inquiry, that a person, who is otherwise qualified to be an elector, is not a citizen of India, he shall not delete or exclude his name from the electoral roll but shall immediately report the case in writing to the District Magistrate for determination of the citizenship status of such person by the Central Government or an authority authorised by it and shall delete or exclude his name from the electoral roll only on receipt of a communication from the District Magistrate to the effect that the person concerned is not an Indian citizen.".

STATEMENT OF OBJECTS AND REASONS

Section 22 of the Representation of the People Act, 1950, empowers the electoral registration officer to exclude or include the name of an elector on change of residence, etc. However, in actual practice, the electoral registration authorities, all over the country, under the guidelines issued by the Election Commission of India, exclude the names of genuine electors on the suspicion that they are not citizens of India, after making a cursory inquiry, even though these electors happen to be included in the previous electoral rolls. Thereafter, the electoral roll prepared by the enumerator under the authority of the electoral registration officer is finalised and the electors whose names have been excluded from the electoral roll are asked to file an application for inclusion of their names in the electoral roll. Such applications are also dealt with in a cursory manner resulting in the deprivation of many citizens of their democratic and fundamental right to vote and what is worse, in fact, to render them Stateless.

The Representation of the People Act, 1950, does not deal with the question of determination of citizenship status of electors. The Act simply provides for disqualification of a person from registration in electoral roll if he is not a citizen of India. Further, the Electoral Authorities have no legal power to decide whether a person, who is residing in India and who claims to be a citizen, is or is not a citizen of India. The determination of citizenship status should be done only in accordance with established law of the land by the competent authority.

This confusion, deleberate or inadvertent between two distinct legal processes, *i.e.*, to decide citizenship status of a person and to bar persons, who are not citizens of India from registration in electoral roll, has been selectively used to disenfranchise many members of some communities all over the country. In the interest of secular democracy based on the principles of equality, justice and fraternity, this confusion needs to be removed.

The proposed Bill outlines a procedure for dealing with cases where citizenship status of persons whose names have been entered or are to be entered in the electoral roll is doubtful. It is possible that during the process of enumeration, the enumerator and/or the electoral registration officer may receive information from individuals, organisations, associations and even concerned Government departments that a person whose name appears in the electoral roll or who has applied for inclusion of his name in the electoral roll is suspected to be a foreign national. The Supreme Court has, in a recent judgment, directed that in such cases, such a person should be served with a show-cause notice with grounds for such suspicion, as required by the principle of natural justice.

However, the Supreme Court decision does not directly answer the question whether the citizenship status of a person can be determined by the

electoral registration officer under section 22 or any other provision of the Representation of the People Act, 1950. It is, therefore, proposed in this Bill that if there is a *prima facie* case which casts doubt on the citizenship of a person, who is otherwise eligible to be an elector, his name may be included in the electoral roll for the time being and, in the meantime, his case may be referred to the Central Government for determination of his status in accordance with law and his name may be deleted only if he is found to be not an Indian national.

Hence this Bill.

NEW DELHI;
April 7, 1995.

SYED SHAHABUDDIN

BILL No. 36 OF 1995

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1995.

Substitution of new article for article 30.

2. For article 30 of the Constitution, the following article shall be substituted, namely:—

Right to establish and administer educational institutions.

"30. (*1*) Any section of the citizens residing in the territory of India or any part thereof professing a distinct religion or having a distinct language, script or culture of its own or forming a distinct social group shall have the right to establish and administer educational institutions of its choice.

(*2*) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a section of citizens, referred to in clause (*1*), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(*3*) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a particular section of citizens referred to in clause (*1*).".

STATEMENT OF OBJECTS AND REASONS

Article 30 of the Constitution, as it stands, applies to religious and linguistic minorities. By judicial interpretation, the term 'minority' has been extended to include identifiable social groups which form a minority in the population of a State even if they form a majority in the Union as a whole. Similarly, the meaning of the term 'minority' has been broadened to include denominations and sects which are generally considered to be part of a larger religious group. In a vast and complex plural society, almost every identifiable group, whether identifiable by religion, including denomination or sect, or by language, including dialects, forms a minority at some operational or functional level, even if it forms a majority at some other levels. In the age of ethnicity that has dawned in the world, all identifiable groups are equally anxious to maintain their identity and they too wish to have the privilege of the right to establish educational institutions of their choice. Indeed, many caste groups have established educational institutions primarily for their own community and, in practice, enjoy the same privileges in matters of administration and management as were originally envisaged for religious and linguistic minorities.

The aspiration for conserving and communicating religious and cultural traditions and language to succeeding generations is legitimate and applies to all groups, big or small. It is, therefore, felt that the scope of article 30 of the Constitution should be widened to include all communities and all sections of citizens who form a distinct social group at any level.

Of late, article 30 has been criticised as bestowing a privilege on the minority communities which the majority community does not enjoy. The majority community or any section thereof should also be allowed to establish and administer educational institutions of its choice, if it so desires.

Hence this Bill.

NEW DELHI;
April 20, 1995.

SYED SHAHABUDDIN

R. C. BHARDWAJ
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI 1995.